

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK**

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DARRELL CHAPMAN, also known as  
Darrell Bishop Chapman,

v.  
Plaintiff,

9:19-CV-1257  
(GTS/CFH)

JOHN DOE #1, *et al.*,

Defendant.

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**APPEARANCES:**

DARRELL CHAPMAN  
Plaintiff, Pro se  
43749  
Albany County Correctional Facility  
840 Albany Shaker Road  
Albany, New York 12211

**CHRISTIAN F. HUMMEL**  
**United States Magistrate Judge**

**ORDER**

Plaintiff Darrell Chapman ("Plaintiff") commenced this action by filing a pro se civil rights Complaint pursuant to 42 U.S.C. § 1983 ("Section 1983"). Dkt. No. 1 ("Compl."). By Decision and Order filed on December 3, 2019 (the "December Order"), this Court found that Plaintiff's Fourteenth Amendment deliberate indifference claims against John Doe #1 and John Doe #2 survived review and required a response. Dkt. No. 4. The Court instructed the Clerk of the Court to send a copy of the Complaint and the December Order to the Office of the County Attorney for Albany County. *Id.* at 14. The Albany County

Attorney's Office was instructed to attempt to ascertain the identity of the defendants and addresses where they could be served and to provide that information to the Court. *Id.*

On February 25, 2020, the Albany County Attorney's Office responded to the December Order. Dkt. No. 8. In an Order filed on March 23, 2020 (the "March Order"), the Court directed the Clerk to forward a copy of the response to Plaintiff. Dkt. No. 9. The Plaintiff was instructed:

It is ordered that Plaintiff has thirty days from the date of this Order to file an amended complaint that correctly identifies the John Doe Defendants named in his original Complaint. In an effort to assist Plaintiff in drafting the proposed amended complaint, the Clerk shall forward to Plaintiff a copy of his Complaint (Dkt. No. 1). Plaintiff may identify the Doe defendants by handwriting the names in the appropriate locations throughout on the copy of the Complaint and indicate in the caption of the document that it is an amended complaint. Once Plaintiff has made these changes to the copy of the Complaint, captioned it as his amended complaint, and signed the proposed amended complaint, he should submit it to the Court for review. Plaintiff is advised that, if he should fail to identify the John Doe Defendants, his action will be dismissed without prejudice.

Dkt. No. 9.

On April 20, 2020, Plaintiff submitted an Amended Complaint in accordance with the March Order.<sup>1</sup> Dkt. No. 10. Upon review, the Amended Complaint is accepted for filing and is the operative pleading in this action.

In this case, Plaintiff paid the entire filing fee for this action. As a result, Plaintiff is responsible for serving the summonses and complaint on the defendants. Rule 4 of the

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<sup>1</sup> Because defendants have not yet responded, the pleading was filed as of right pursuant to Rule 15(a).

Federal Rules of Civil Procedure provides that "[a]t the plaintiff's request, the court may order that service be made by a United States marshal or deputy marshal or by a person specially appointed by the court." FED. R. CIV. P. 4(c)(3). In order to advance the disposition of this action, and in light of the fact that Plaintiff is proceeding pro se, to effectuate service by the United States Marshal, Plaintiff must (1) pay the service fee due to the U.S. Marshal in full in advance;<sup>2</sup> and (2) provide all necessary papers for service, including a completed U.S. Marshals Form and summonses form (both of which may be obtained from the Office of the Clerk of the Court) for the defendants, and a copy of the Amended Complaint for the defendants. Plaintiff is directed to send the service documents and payment of the service fee to the Clerk of the United States District Court, Northern District of New York, 7th Floor, Federal Building, 100 S. Clinton St., Syracuse, New York 13261-7367, to be forwarded by the Clerk to the U.S. Marshal.

**WHEREFORE**, it is hereby

**ORDERED**, that the Amended Complaint (Dkt. No. 10) is **ACCEPTED** for filing and is the operative pleading in this action; and it is further

**ORDERED**, that the Clerk shall revise the docket to add (i) "Officer Michael A. Beliveau" as a defendant in place of defendant "John Doe #1;" and (ii) "Officer Matthew A. Corey" as a defendant in place of defendant "John Doe #2;" and it is further

**ORDERED**, that the Fourteenth Amendment claims survive review and require a

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<sup>2</sup> Payment of the service fee must be made by money order or certified check payable to "U.S. Marshal." For service by mail, the fee is \$8.00 per summons and complaint. The cost of service by mail on the remaining defendants is \$16.00. Plaintiff is advised that if initial service is unsuccessful, he will be required to pay the U.S. Marshal any additional fees, also in advance, for subsequent service attempts according to the fee schedule set by the U.S. Marshal.

response; and it is further

**ORDERED**, that Plaintiff is afforded an opportunity to request an order of this Court directing service by the U.S. Marshal and provide payment of the service fee to the U.S. Marshal in full by money order or certified check; and it is further

**ORDERED**, that upon Plaintiff's request for assistance with service of process, the Clerk shall return the file to the Court for further review; and it is further

**ORDERED**, that if Plaintiff does not file a request for assistance with service of process **within twenty (20) days** of the filing date of this Decision and Order, the Clerk shall issue summonses and forward them to Plaintiff, who shall be responsible for effecting service of process on defendants. Upon issuance of the summonses, the Clerk shall send a copy of the summonses and Amended Complaint to the Office of the County Attorney for Albany County, together with a copy of this Decision and Order; and it is further

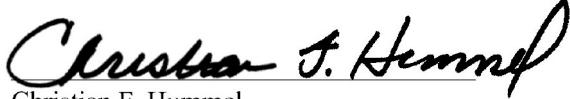
**ORDERED**, that defendants or their counsel, file a response to the Amended Complaint as provided for in the Federal Rules of Civil Procedure after service of process upon them; and it is further

**ORDERED**, that all pleadings, motions and other documents relating to this action must bear the case number assigned to this action and be filed with the Clerk of the United States District Court, Northern District of New York, 7th Floor, Federal Building, 100 S. Clinton St., Syracuse, New York 13261-7367. **Any paper sent by a party to the Court or the Clerk must be accompanied by a certificate showing that a true and correct copy of same was served on all opposing parties or their counsel. Any document received by the Clerk or the Court which does not include a proper certificate of service will be**

**stricken from the docket.** Plaintiff must comply with any requests by the Clerk's Office for any documents that are necessary to maintain this action. All parties must comply with Local Rule 7.1 of the Northern District of New York in filing motions. **Plaintiff is also required to promptly notify the Clerk's Office and all parties or their counsel, in writing, of any change in his address; their failure to do so will result in the dismissal of his action;** and it is further

**ORDERED**, that the Clerk of the Court shall serve a copy of this Decision and Order on Plaintiff in accordance with the Local Rules.

**Dated:** May 12, 2020  
Albany, New York

  
Christian F. Hummel  
U.S. Magistrate Judge